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ABSTRACT

Drawing selectively on data from a study of Title I of the Elementary and Secondary Education Act (ESEA) that included questionnaires sent to 2,000 randomly selected local Title I directors, structured interviews and document reviews in 100 representative Title I districts, and indepth studies in 40 specially selected Title I districts, this report describes the legal framework for school and student selection under both Title I of the ESEA and Chapter 1 of the Education Consolidation and Improvement Act (ECIA) of 1981. After discussing differences between these two sets of provisions, in the following section the author addresses two major issues: (1) the effects of Chapter 1 on school and student selection and the degree of concentration of services and (2) the likely effects of Chapter 1's elimination of school, attendance area, and student selection options previously available under Title I. Findings indicate that, although a majority of districts do not perceive a loss of flexibility under ECIA, most Title I directors believe services under ECIA will be less concentrated than services under Title I, resulting in an overall reduction of services to students currently in Title I programs. (JBM)

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CURRENT TITLE I SCHOOL AND STUDENT SELECTION PROCEDURES AND IMPLICATIONS FOR IMPLEMENTING CHAPTER 1, ECIA

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A SPECIAL REPORT
FROM THE
TITLE I DISTRICT PRACTICES STUDY

CURRENT TITLE I SCHOOL AND STUDENT SELECTION PROCEDURES AND IMPLICATIONS FOR IMPLEMENTING CHAPTER 1, ECIA

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PREFACE

The Title I District Practices Study was conducted by Advanced Technology, Inc. for the U.S. Department of Education's Planning and Evaluation Service. One goal of this study was to describe how local districts operated projects funded by Title I of the Elementary and Secondary Education Act [ESEA] in the 1981-82 school year. A second, related goal was to document local educators' rationales for their program decisions, their perception of the problems and benefits of requirements contained in the 1978 Title I Amendments, and their assessments of the expected effects of Chapter 1 of the Education Consolidation and Improvement Act [ECIA] on school district operations of Title I projects. The study was designed specifically to draw cross-time comparisons with the findings of the Compensatory Education Study conducted by the National Institute of Education [NIE] and to provide baseline data for subsequent analyses of Chapter 1, ECIA's administration.

The results of the Title I District Practices Study are presented in this and eight other special reports (see back cover), plus the study's Summary Report. These reports synthesize data collected from a mail questionnaire sent to Title I Directors in more than 2,000 randomly selected school districts, structured interviews and document reviews in 100 nationally representative Title I districts, and indepth case studies in 40 specially selected Title I districts.

To meet the objectives of this major national study, a special study staff was assembled within Advanced Technology's Social Sciences Division. That staff, housed in the Division's Program Evaluation Operations Center, oversaw the study design, data collection and processing, analysis work, and report preparation. The study benefited from unusually experienced data collectors who, with Advanced Technology's senior staff and consultants, conducted the structured interviews and case studies. Two consultants, Brenda Turnbull of Policy Studies Associates and Joan Michie, assisted in major aspects of the study including the writing of special reports and chapters in the Summary Report. Michael Gaffney and Daniel Schember from the law firm of Gaffney, Anspach, Schember, Klimaski & Marks, P.C., applied their longstanding familiarity with Title I's legal and policy issues to each phase of the study.

The Government Project Officers for the study, Janice Anderson and Eugene Tucker, provided substantive guidance for the completion of the tasks resulting in these final reports. The suggestions of the study's Advisory Panel and critiques provided by individuals from the Title I program office, especially William Lobosco and Thomas Enderlein, are also reflected in these reports.

Members of Advanced Technology's analytic, management, and production staff who contributed to the completion of this and other reports are too numerous to list, as are the state and local officials who cooperated with this study. Without our

mentioning their names, they should know their contributions have been recognized and truly appreciated.

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Title I District Practices Study

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Title I District Practices Study

CURRENT TITLE I SCHOOL AND STUDENT SELECTION PROCEDURES AND IMPLICATIONS FOR IMPLEMENTING CHAPTER 1, ECIA

SUMMARY

This report describes the legal framework for school and student selection under Title I, ESEA; summarizes the legal provisions for school and student selection under Chapter 1, ECIA; and discusses the differences between these two sets of provisions. Data describing current Title I school and student selection practices are presented and, where possible, compared with similar data from 1977 NIE reports. The report examines the possible effects of using "part of" Chapter 1 funds for "all educationally deprived, low-income children" served by school districts, and analyzes the potential consequences of Chapter 1's "permitting" rather than requiring the selection of students with the greatest need. Finally, the report presents administrators' perceptions of the likely effects of Chapter 1's elimination from the statute of school and student selection options available under Title I.

Regarding current school selection practices the data support the following principal findings: (1) by far the most common information source for school selection decisions is free or reduced-price lunch counts; (2) nearly three-fourths of the school districts provide Title I funds to all eligible schools; (3) the most frequently used school selection options are ranking by grade span and use of school enrollment data, rather than area demographic information, though other options are also used by

substantial percentages of the nation's school districts; many districts, however, are unaware of all the options available to them; (4) most districts, in choosing information sources and school selection options, seek to maximize the number of schools (or students) that will participate in the program, and a substantial number of districts experiment with different sources or options to test the results before finally choosing a district policy; (5) three-fourths of the school districts allocate Title I funds to schools according to the number of children selected to participate in the program (although there is substantial evidence that informal judgment, not just counts of participants, plays a significant role in funds allocation); and (6) most districts would prefer to select Title I schools according to achievement data, but this view is far more prevalent among small districts than large districts.

Regarding current student selection practices, the data reveal that nearly half the districts serve all students deemed eligible, while a slightly greater number of districts select program participants from an eligible pool. Nearly all districts use "cut-off" scores on achievement tests to select students, but those scores are used exclusively in only some districts. Three-fifths of all districts report that teachers may decide to give Title I services to students above the cut-off. A similar number report that teachers may decide that students below the cut-off do not need the services. A student's potential for success is a factor considered by 25 percent of the districts.

Forty-four percent of the districts plan to use Title I funds for non-Title I students under ECIA's "utilize part" provision, and 60 percent of the Title I Directors expect the result to be reduction or dilution of services to current program participants. Seventy-one percent of the Principals say they favor the "utilize part" provision, but 38 percent warn that a diluted effect or abuses of Title I funding might result.

Under the "permits" provision, only 37 percent of the districts will limit Chapter 1 services to those students furthest behind. Seventeen percent of the Title I Directors report that pressure exists to serve students other than those in greatest need, and 18 percent state they will "serve those who can benefit" and "not serve those who cannot benefit.".

Thirty percent of the school districts believe that ECIA's elimination of Title I school selection options will reduce their flexibility. Also, fifty-three percent of the Title I Directors believe that ECIA's school and student selection provisions may hurt the program, increase the difficulty of implementation, change the program's intent, transform the program to general aid to schools, or lead to wasted funds.

CURRENT TITLE I SCHOOL AND STUDENT SELECTION PROCEDURES AND IMPLICATIONS FOR IMPLEMENTING CHAPTER 1, ECIA

INTRODUCTION

The central focus of Title I of the Elementary and Secondary Education Act [ESEA]* has been to provide compensatory services to educationally deprived children having the greatest need in school attendance areas with high concentrations of children from low-income families. The statutory and regulatory framework for Title I, however, also includes several options for implementing the general school and student selection rules.**

Chapter 1 of the Education Consolidation and Improvement Act [ECIA] of 1981 (P.L. 97-35),*** which becomes effective in October 1982, makes three general changes in the Title I legal framework for school and student selection. First, Chapter 1 does not explicitly contain the school and student selection options available under Title I. Regulations issued by the Department of Education [ED]**** omit them as well, but a draft nonregulatory

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*Hereafter referred to as Title I.

**These options are discussed more fully in the next section of this paper.

***Hereafter referred to as Chapter 1, or ECIA.

****47 Federal Register, July 29, 1982, p. 32856. In August 1982, Congress vetoed the final Chapter 1 regulations because of a dispute about the extent to which the General Education Provisions Act applies to Chapter 1. Since this dispute does not concern the portion of the Chapter 1 regulations cited in this report, references to the July 29, 1982 regulations have been retained with the understanding that a change in the effective date or even republication is possible.

guidance document* prepared by ED suggests that several school and student selection options remain available.

Second, Chapter 1 allows school districts to "utilize part of" their Chapter 1 funds for "all educationally deprived, low-income children,"** not just educationally deprived children in low-income areas. This is the first time the Federal legal framework has used poverty as a student selection criterion.

Third, under Chapter 1 school districts are no longer required to serve educationally deprived students having the greatest need; instead, districts need only have a procedure that "permits" the selection of these students.

Exploring the implications of these changes for school and student selection under Chapter 1 is one of the two purposes of this special report. Its main purpose, however, is to present information about current school and student selection practices

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*U.S. Department of Education, Nonregulatory Guidance to Assist State Educational Agencies in Administering Federal Financial Assistance to Local Educational Agencies for Projects Designed to Meet the Special Educational Needs of Educationally Deprived Children under Chapter 1 of the Education Consolidation and Improvement Act of 1981, April 22, 1982. Draft

**The statute refers to "all such" children, possibly referring only to "all low-income" children; but ED regulations add the phrase, "educationally deprived."

under Title I.* To organize these analyses, the report addresses three research questions:

- What are current district practices for identifying and selecting participating schools and students under Title I?
- How might the selection of schools and students, and degree of concentration of services, be affected by either the Chapter 1 option to "utilize part" of the funds for all educationally deprived, low-income students or procedures which merely "permit" selection of students having the greatest need?
- How might ECIA's elimination of Title I attendance area, school, and student selection options affect flexibility under Chapter 1?

To address these questions, this report draws selectively upon data from the Title I District Practices Study conducted by Advanced Technology for ED.** This study used three strategies for data collection:

- A mail questionnaire sent to 2,000 randomly selected local Title I Directors
- Structured interviews and document reviews in 100 representative Title I districts

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*This report concerns selection of students in public schools, though it occasionally notes findings concerning nonpublic school and student selection. The implementation of Title I in nonpublic schools is the subject of a separate special report. Similarly, another special report addresses selection and service decisions related to "multiply-eligible" students, i.e., students who are eligible for Title I services as well as special education or English-as-a-Second-Language/bilingual services.

**Hereafter referred to as the District Practices Study or DPS. The study is limited to the Title I program for the educationally disadvantaged and does not address the separate Title I programs for migrant, handicapped, or neglected and delinquent children.

- Indepth studies in 40 specially selected Title I districts*

Through these strategies the study gathered three categories of data:

- Data describing current district practices
- Retrospective data for cross-time comparisons (1978-79 to 1981-82)
- Prospective data for assessing the possible effects of legislative changes

These data--with the legal provisions, legislative history, and data from previous studies, especially the congressionally mandated study of Title I undertaken by the National Institute of Education [NIE] from 1975 to 1978--constitute the basis for this special report.

A few words of caution are necessary regarding use of the data to assess the possible effects of Chapter 1 on school and student selection. First, the data were collected in the late fall of 1981, soon after enactment of ECIA the previous summer. Many respondents, particularly in small districts, were not familiar with specific changes made by ECIA. Second, though questions in the study's data collection instruments expressly sought perceptions of the likely effects of changes made by ECIA, actual district behavior may not coincide with predictions of

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*The Summary Report of the DPS presents the study methodology and the rationale for this data collection approach in greater detail.

anticipated behavior. Third, Chapter 1 regulations and ED's draft nonregulatory guidance document, which might affect a district administrator's perceptions of possible changes made by ECIA, had not been issued when data were collected. Consequently, the data in this special report cannot describe definitively the likelihood or magnitude of future changes in school and student selection. On the other hand, these nationally representative data capture local Title I administrators' initial impressions of likely effects in their districts.

In addressing the research questions, this report (1) describes the legal framework for school and student selection under Title I; (2) summarizes the legal provisions for school and student selection under Chapter 1 and discusses the differences between these two sets of provisions; (3) presents and discusses possible implications of DPS data bearing on current school and student selection including, where possible, comparisons with similar data from 1977 NIE reports; (4) examines data concerning the possible effects of using "part of" Chapter 1 funds for "all educationally deprived, low-income children," or of permitting rather than requiring the selection of students with the greatest need; and (5) presents administrators' perceptions of the likely effects of Chapter 1's elimination of school, attendance area, and student selection options available under Title I.

Where analysis has found differing perceptions or practices in districts of varying size, data are reported separately for small, medium, and large districts.

TITLE I SCHOOL AND STUDENT SELECTION POLICY

Title I is not a general aid-to-education program. Although the criteria governing school district eligibility are broad,* the eligibility and "targeting" requirements of Title I generally specify that school officials serve the areas in each district with the lowest income, and children with the greatest educational need.

Selection of School Attendance Areas

In general, a school district must use its Title I funds only in "school attendance areas having high concentrations of children from low-income families" (§122(a)(1).** Furthermore, districts must usually rank attendance areas by poverty

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*The only demographic requirement school districts must meet to be eligible for funds under the basic grant program is the requirement that the district include at least 10 children counted under the formula for distribution of basic grant funds (P.L. 95-561, §111). (This requirement, however, applies only if the Commissioner has determined that satisfactory data on the number of children counted under the formula are available at the school district level. In any other case, a school district is eligible if it is located in a county having at least 10 children counted under the formula. The secretary is directed by the Act to formulate regulations governing situations where data are inadequate to make district-level determinations and school district boundaries overlap the boundaries of more than one county (P.L. 95-561 §111(b)(2)(3)).) Since the formula counts all "children aged 5 to 17 inclusive . . . in the school district from families below the poverty level," the vast majority of districts have at least 10 such children, and thus, are eligible.

**"High" has been interpreted in regulations to mean average or above (see 46 Federal Register, January 19, 1981, pp. 5167-5168, §201.51). However, any area having a 25 percent or greater concentration of children from low-income families can be considered eligible if the total level of Title I and state compensatory education expenditures in Title I areas served the year before remains in those areas at that level or is increased (§122(a)(1)).

concentration, using the "best available" poverty measure,* and serve them in order, from highest to lowest.** As Congress stated in the legislative history of the Education Amendments of 1978, the ranking requirement reflects "the goal of concentrating on the lowest-income schools" and codifies

> the long-standing Office of Education [OE] policy of requiring local educational agencies [LEAs] to rank, from highest to lowest, school attendance areas in accordance with incidences of children from low-income families (H.R. Rep. 1137, pp. 20-21).

School districts, however, may rank areas by "grade span," an option which provides additional choices in determining school attendance area eligibility (§201.51(c)).*** A district desiring to limit its Title I program to grades K-6, for example, may choose to rank only the attendance areas with schools serving those grades. This district would not have to consider serving secondary school areas, even if they had poverty rankings higher than all of the elementary school areas. In addition to these options, the poverty ranking requirement has six exceptions, designed "to give districts more flexibility without watering

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*46 Federal Register, January 19, 1981, p. 5167, §201.51(b).

**"A local educational agency may carry on a program or project assisted under this title in an eligible school attendance area only if it also carries on such program or project in all other eligible school attendance areas which are ranked higher" (§122(a)(1)). There are exceptions to this requirement though, which are discussed in the following paragraphs.

***The citation is to the 1981 regulations.

down the targeting features intended to give the program a focus when funds are limited" (H.R. Rep. 1137, pp. 20-21).

First, in districts where there is "no-wide variance" in poverty concentration among attendance areas, all areas may be served, including those below average. Second, a school attendance area having a relatively high concentration of children from low-income families may be passed over, or "skipped," in favor of an attendance area having a "substantially greater" concentration of educationally deprived children.* Third, a school attendance area initially ranked higher may be skipped if it is served by a state compensatory education program providing "services of the same nature and scope as would otherwise be provided" by Title I (§122(e)).

Under a fourth exception an eligible school attendance area designated to receive Title I funding in one year may still be eligible in the next two fiscal years, even if it no longer has a high concentration of children from low-income families (§122 (c)). The fifth exception provides that a school not located in an eligible area, but nonetheless enrolling a high concentration of children from low-income families,** can be treated in the same manner as one in an eligible attendance area (§122(b)).

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*A district, however, may not utilize this exception to serve a total number of areas greater than the total number of areas that would be eligible if the only factor considered were concentration of children from low-income families (§122(a)(2)(A)).

**This condition might prevail in an attendance area where large numbers of children from high-income families attend private schools.

Finally, the sixth exception allows all attendance areas having a 25 percent or greater concentration of children from low-income families to be served if certain conditions are met (§122(a)(1)).

Selecting attendance areas for Title I services involves not only ranking and the use of options and exceptions but also deciding whether to concentrate the program on fewer than all eligible areas (§124(d), (e)). This decision affects the selection of students and is often difficult to make. A decision not to serve one or more eligible schools, for example, means their low-achieving children will receive no service, while perhaps some higher-achieving students in target schools will benefit. On the other hand, a district that chooses to serve every eligible school may find its use of Title I funds limited to providing a few services to the lowest-achieving children, rather than more comprehensive services to a broader spectrum of educationally deprived children in the highest ranking schools.

Student Eligibility and Selection

Once schools or attendance areas are chosen, districts must select the students in those schools or areas having the greatest need for compensatory educational services (§123(a)).

"Greatest need" is defined in the regulations as furthest behind in educational attainment; however, it is commonly understood that the educable and trainable mentally retarded, those furthest behind in a literal sense, are not the primary intended program beneficiaries, although they are eligible if able to benefit from services designed to address special needs caused by

educational deprivation (S. Rep. 856, p. 13; §201.140(c)). Determinations of "greatest need" must be made through an annual needs assessment (§124(b)).

To begin, a school district must use "existing and--to the extent possible--objective data" to identify educationally deprived children (§201.101). Then, to select actual participants from among eligible children, a district must use "specified criteria" and, again, "to the extent possible, objective data" (§201.103(a)). Children in greatest need are "those educationally deprived children who rank lowest based on whatever educational criteria an LEA uses . . . to identify and select Title I participants" (Comment to §201.103, 46 Federal Register, January 19, 1981, p. 5220). The selection of the neediest students according to this method significantly affects the allocation of Title I resources, since LEAs are required to distribute their Title I funds "on the basis of the number and needs of [the] children to be served as determined in accordance with Section 123" (the needs assessment requirement) (§124(e)).

The "greatest need" requirement is modified, however, by three other policies. First, educationally deprived children selected under greatest need criteria in a previous year may continue in Title I programs although they have improved and are no longer among those furthest behind (§123(b)). Second, a Title I participant who transfers to a school with no Title I program may continue to receive Title I services for the remainder of the school year (§123(c)). Third, children determined to be in

greatest need of assistance, but receiving state compensatory education services of the same nature and scope as those provided under Title I, need not be served (§123(d)).

Other Title I provisions included in, or adopted shortly after, the 1978 Amendments modified the requirement that Title I services be limited to educationally deprived children. First, students otherwise ineligible could benefit from Title I services on an infrequent and incidental basis (§201.71(d)). Second, educators paid by Title I were allowed to perform their fair share of school noninstructional duties (hall or cafeteria monitoring, for example), even though such services constitute general, not categorical, assistance. Third, in very high-poverty schools, Title I schoolwide projects could be operated (P.L. 95-561, §134, and §133, respectively). All three provisions, however, are limited by conditions, presumably to prevent these exceptions from weakening services to eligible Title I schools and students.

CHAPTER 1 SCHOOL AND STUDENT SELECTION POLICY

Chapter 1 retains the broad school district eligibility provision found in Title I. Also, the new law's "Declaration of Policy" states that ECIA's intent is not to change the central focus on educationally deprived children in low-income attendance areas, but merely to make Federal compensatory education "more effective" by freeing educators "from overly prescriptive regulations and administrative burdens which are not necessary for fiscal accountability and make no contribution to the instructional

program" (§552 of ECIA). Nevertheless, some of the actual provisions of Chapter 1 appear to represent important departures from the Title I legal framework.

Selection of School Attendance Areas

Chapter 1 provisions governing selection of attendance areas require LEA grant applications to assure that proposed programs and projects will be (1) "conducted in attendance areas . . . having the highest concentrations of low-income children"; (2) "located in all attendance areas of an agency which has a uniformly high concentration of such children"; or (3) "designed to utilize part of the available funds for services which promise to provide significant help for all such children served by such agency" (§556(b)(1) of ECIA).

The ECIA regulations, 47 Federal Register, July 29, 1982, p. 32856, do not describe "highest concentrations of low-income children"; however, ED's draft nonregulatory guidance document states that this provision does not "require an LEA to serve attendance areas in rank order of their concentration of children from low-income families" (p. 8). The regulations also omit the requirement that poverty concentrations be determined by the "best available measure," but ED's draft guidance document encourages this practice (p. 7).

The regulations do not explain the meaning of "uniformly high concentration." The draft guidance document, however, states this clause is "similar to the 'no-wide variance' provision in . . . the Title I regulations" (p. 6), adding that

poverty concentrations among attendance areas could be deemed "uniformly high"

> if the variation between (a) the percentage of children from low-income families in the attendance area with the highest concentration of such children and (b) the percentage of children from low-income families in the attendance area with the lowest concentration of such children is not more than the greater of 10 percent or one-third of the percentage of children from low-income families in the LEA as a whole. (p. 7)

Regarding the ECIA option to use "part of" Chapter 1 funds for "all such children," the regulations state in §200.49 that this means "all educationally deprived, low-income children served by the LEA." ED's draft guidance document states that this clause "provides a new option that was not available under Title I":

> The Secretary interprets this subsection to permit an LEA to use part of its Chapter 1 funds for services that promise to provide significant help to all low-income children served by the LEA, regardless of whether those children are in attendance areas that qualify under [the "highest concentration" or "uniformly high concentration" clauses]. Thus, rather than establishing a new procedure for the selection of attendance areas, [the "all such children" clause] actually creates an exception to the requirement that services be provided in eligible attendance areas. (pp. 6-7)

The draft guidance document, however, suggests that services for children participating under this new option "must consist of services that promise to provide significant help in meeting the[ir] special educational needs" (p. 9).

The Chapter 1 statute omits the Title I school selection options (1) to skip a higher ranked attendance area if a lower ranked area has a "substantially greater" concentration of educationally deprived children (§122(a)(2)(A)); (2) to skip an area served by a state or locally funded compensatory program providing services of the "same nature and scope" (§122(e)); (3) to serve a formerly eligible school (§122(c)); (4) to serve a school by using the enrollment exception, (§122(b)); and (5) to serve an attendance area with 25 percent or greater concentration of children from low-income families if certain conditions are met (§122(a)(1)). Another ECIA provision may deem these omissions significant:

> The provisions of title I of the Elementary and Secondary Education Act of 1965 which are not specifically made applicable by this chapter shall not be applicable to programs authorized under this chapter. (§554(c))

The regulations do not address the continuing vitality of these Title I options, but the draft guidance document suggests that the last three remain available under Chapter 1.*

Regarding the "formerly eligible" option, the document acknowledges that:

> [u]nlike Title I, the Chapter 1 statute does not include a provision that permits an LEA

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*Regarding the first option, both the ED comments on the proposed rules and the draft guidance document suggest that "LEAs may consider data on educational deprivation when selecting project areas from eligible attendance areas," but they do not state that data on educational deprivation may be used to determine the eligibility of schools for Chapter 1 services. 47 Federal Register, p. 32873 (emphasis added).

> to continue to consider an area to be eligible even if it does not currently qualify as an eligible attendance area. (p. 8)

The document continues, however, implying that an attendance area determined eligible on submission of the district's application may be deemed eligible "for the entire period covered by the LEA's application." Under §556(a) this period is three years.

> Under Chapter 1, an LEA is not required to identify eligible attendance areas on an annual basis. An LEA's identification of eligible attendance areas may be for the entire period covered by the LEA's application.*

Regarding the Title I option to use enrollment data for schools not located in eligible attendance areas, the draft guidance document clearly states that this option remains available (p. 8). Also, the document states that the "25 percent rule" is one permissible method "for identifying attendance areas . . .

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*The draft guidance document, however, includes a statement which apparently intends to qualify the authority to deem schools eligible "for the entire period" embraced within a district's application:

> However, under Section 556(b)(2) Chapter 1, an LEA's selection of attendance areas to participate in the project must be made annually on the basis of its annual assessment of the educational needs of educationally deprived children in all eligible attendance areas. (See Section 8 of this document.)

The draft guidance document does not explain the significance of this apparent qualification. Section 8 of the document refers to identification of educationally deprived children in all eligible attendance areas but does not establish criteria for determining which areas are eligible.

having 'the highest concentration of low-income children'" (p. 7). Finally, the document states that grade-span grouping, previously allowed by Title I regulations, though not mentioned in the Title I statute, is still an available option under Chapter 1 (p. 7).

Student Eligibility and Selection

Though the ECIA "Declaration of Policy" retains the central Title I focus on educationally disadvantaged children, one provision of the Act states that school districts need only have a procedure that "permits" selection of students in greatest need (§556(b)(2) of ECIA). The regulations do not elaborate the statute, but ED's comments accompanying the regulations indicate this provision should not be "read to allow services to be provided to children with lesser needs, while leaving more severely educationally deprived children with no services from any source." (47 Federal Register, p. 32873.)

This comment implies that Chapter 1 funds may serve the less needy if, for example, state-funded compensatory services are provided to the more severely educationally deprived. ED's draft guidance document offers a similar view suggesting that the "permits" provision implicitly retains the Title I policy allowing districts to skip educationally deprived children receiving compensatory services from other sources (p. 10).

The draft guidance document also suggests that the "permits" provision implicitly retains another Title I option--discretion

to continue service to students selected in a previous year, though no longer in greatest need:

> Similarly, an LEA may continue to provide Chapter 1 services to an educationally deprived child even though he or she is not one of the children who is currently most in need of special assistance. (p. 10)

ECIA retains the requirement of a needs assessment (§556 (b)(2)). The regulations do not elaborate the requirement, but the draft guidance document suggests a procedure similar to that found in previous Title I regulations.

Unlike Title I, ECIA contains no requirement that funds be distributed to schools according to the "number and needs" of the children identified in the needs assessment. The draft guidance document also notes that districts are not required to serve attendance areas in order according to their concentrations of children from low-income families (p. 8).

FINDINGS OF THE DISTRICT PRACTICES STUDY

One of the issues addressed by the NIE's pre-1978 national survey of Title I was, "How are the children who need compensatory services identified, and who is selected to receive these services?" DPS data provide several opportunities for comparisons with NIE's findings on this issue. These comparisons are included in the following two sections on school and student selection, each of which is organized into three parts: (1) data sources for eligibility and selection decisions; (2) selection of participants from among those eligible; and (3) use of special options.

School Selection*

Data Sources Used

Table 1 compares NIE and DPS findings on the data sources most commonly used to select Title I schools.

These data show a substantial shift to free and reduced-price meal counts as 1970 census information has become increasingly outdated. The data also show that many districts have continued to use a combination of data sources in selecting Title I schools. NIE (1978) reasoned:

> Districts appear to be using two or more criteria, and calling schools eligible if they fit any one . . . . Thus, it appears that districts use various combinations of criteria to select eligible schools; some districts might use different criteria for different schools and include as eligible all schools eligible under each criterion. (p. 78)

As a result, NIE (1978, p. 78) reported "a very high proportion (68 percent) of the schools in Title I districts are classified as eligible."

DPS mail survey data confirm this tendency of school districts to select data sources which render a high proportion of schools eligible for Title I funds. When asked their objective

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*The selection of public schools for Title I programs affects nonpublic schools, since the eligiblility of nonpublic school students depends on whether they live in an eligible attendance area. (The nonpublic school, itself, need not be located in an eligible area.) Once a school district determines the eligible attendance areas, nonpublic schools are then contacted to determine whether they enroll students residing in those areas. The methods used by district officials to contact nonpublic schools are discussed in the separate special report on the implementation of Title I in nonpublic schools.

TABLE 1

PERCENTAGE OF DISTRICTS USING VARIOUS DATA SOURCES TO SELECT TITLE I SCHOOLS

DATA SOURCE	PERCENTAGE	
	School Year 1976-77 (Source: NIE, 1978)	School Year 1981-82 (Source: DPS)
Census data on family income	67	20
Free lunch and/or free breakfast counts	66	Not available
Free and/or reduced-price lunch counts	Not available	78
Free breakfast counts	Not available	9
Aid to Families with Dependent Children [AFDC]	51	35

in deciding what data sources and school selection procedures to use, 58 percent of the districts answered "service to as many schools or students as possible"; moreover, many districts, 28 percent, stated they experimented with different sources or procedures.

One of the 20 DPS case studies illustrates the point. From 1978 to 1981 this district used a combination of Aid to Families with Dependent Children and free and reduced-price lunch data. Then, when it appeared that continued reliance on these data sources would cause a school to lose eligibility, the district switched to exclusive use of free and reduced-price lunch data, which kept the school eligible.

Selection of Schools from among Those Eligible

NIE (1978, p. 79) found "[o]ver 80 percent of Title I districts report serving all eligible schools." DPS data found that 74 percent of all districts report following this practice. The remainder select participant schools from among those eligible, using either poverty rankings or other options.

Use of Special Options

DPS data collected in Table 2 indicate substantial use of the special school selection options, most of which were codified in the 1978 Amendments to Title I. The data show that, except for achievement ranking, most districts use an option if it

TABLE 2

OPTIONS USED BY MAIL SURVEY DISTRICTS TO SELECT ATTENDANCE AREAS OR SCHOOLS

OPTION	N	USED OPTION	UNAWARE OF OPTION	OPTION CONSIDERED BUT NOT USED	OPTION INAPPLICABLE TO DISTRICT
		%	%	%	%
Grade span grouping	251	48	Not available[c]	Not available[c]	0
Formerly eligible	260	19	3	5	73[a]
"No-wide variance" all selected	261	28	4	8	60
25 percent rule	242	14	21	11	54[b]
Skipped one or more eligible areas receiving state or local compensatory services	261	9	6	6	78
Used enrollment data	237	47	27	26	0
Ranking and selection by low achievement	242	21	40	40	0

[a]-All previously served areas/schools were still eligible; [b]-average poverty level in district below 25 percent; and [c]-52 percent of the districts reported not using this option, but the data do not show whether this was due to lack of awareness, rejection of the option, or recognition that use of it would make no difference (as in a one-school district).

applies to them and they are aware of it.* The high percentage of districts unaware of the achievement ranking option, moreover, may account for the exception. When asked what school selection criteria they would prefer, and what criteria their districts would use in the absence of any specification by law, 65 percent of the mail questionnaire respondents report they would prefer to use achievement data. They also estimate that 68 percent of the districts actually would use such data.** The exception, therefore, cannot be attributed to lack of interest in achievement-based school selection.***

Student Selection

Data Sources Used

In its 1977 report to Congress NIE said:

> All Title I districts use standardized achievement test scores to determine eligibility for Title I services. However,

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*Options for selection of schools, however, are meaningful only in districts having more than one school to select. In the 1981-82 school year, 43 percent of the nation's school districts had only one school. The options are also likely to be less significant in districts having few schools. In 1981-82, 59 percent of the districts had one or two schools, 70 percent had three or fewer, 79 percent had four or fewer, 85 percent had five or fewer.

**Small districts, in particular, express a preference for achievement data. While 65 percent of the mail questionnaire respondents in all districts express this preference, the percentage in small districts is 76; in medium districts, 54; and in large districts, only 47.

***Only 3 percent of the districts report rejecting the option as too complicated, while an equal percentage stated they choose not to use it because of opposition by the state educational agency [SEA].

> district testing programs are usually focused on only one or two grades, whereas compensatory programs may be offered in as many as six grade levels. Thus, 89 percent of Title I districts also use teacher judgment to identify those low-achieving students for whom test scores are unavailable. (p. 11)

The DPS on-site interviews of Title I teachers yielded similar results, 99 percent reporting use of tests and 77 percent reporting reliance on more subjective judgment.

DPS data also reveal the flexibility, and at times subtle nuances, of the student selection process used by Title I districts. While 46 percent of the districts report using, with rare exception, a firm test score cut-off criterion to select participants, considerable flexibility is evident in other districts. Three-fifths of all districts, 62 percent, report that "teachers may decide that some students above the cut-off point need Title I services."* A similar number of districts, 59 percent, report that "teachers may decide that some students below the cut-off point do not need Title I services."** A student's potential for success is a factor considered by 25 percent of the districts.

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*This 62 percent includes some of the 46 percent of the districts which only rarely deviate from cut-off scores.

**Student selection in nonpublic schools is similar to that in public schools. In approximately half the districts serving nonpublic school students, the same standardized test and cut-off scores are used in both the public and nonpublic schools. Different tests are used in only 17 percent of the districts, while different cut-off scores are used in only 11 percent of the districts. DPS findings show that teacher judgment plays a similar role in the selection of both public and nonpublic school students. See the special report on implementation of Title I in nonpublic schools.

Selection of Participants from among Those Eligible in Title I Schools

Within schools selected for Title I services, NIE (1978, p. 12) found "that the number of students receiving Title I services is 66 percent of the number of program eligibles." The DPS found this figure for Title I public schools to be 63 percent in 1978-79 and 59 percent in 1981-82.*

DPS data also show that 44 percent of the districts report serving all eligible students in 1981-82, while the majority select participants from an eligible pool. It is not clear, however, that districts have a uniform conception of eligibility. One district, for example, may serve all students "eligible," but define eligibility as scoring at or below the 25th percentile. Another district may deem eligible all students scoring below the 50th percentile but report selecting from that pool only those scoring at or below the 25th percentile. Thus, districts actually serving the same category of student might answer differently when asked whether they serve all or only some of the eligible students.*

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*The drop may be attributable to inflation or budget cuts. See the special report devoted to this subject.

*See ED, An Evaluation of ESEA Title I--Program Operations and Educational Effects, A Report to Congress, March 1982, p. III-4: "It is difficult to assess how adequately local [student selection] procedures achieve the intent of the regulations due to differing definitions of educational deprivation and greatest need."

DPS case study data indicate that selection of students for Title I programs is often a flexible, and sometimes elaborate, procedure involving several subtleties and exceptions to general rules. In one district six factors influence teacher selection of students to participate in the Title I program: (1) California Achievement Test [CAT] score; (2) whether previously served in Title I; (3) whether referred by a regular program teacher; (4) score on locally made screening tests; (5) whether state compensatory education services are available; and (6) whether individual Title I teachers have space available for more students. In this district CAT score is the main criterion, and the 45th percentile is the usual cut-off point. Those scoring lowest are generally selected first, unless (1) state compensatory education services are available at the grade level in question (in this district grades 1 through 3), and (2) the student is among the 30 scoring lowest, who are customarily selected for the state program.

Selection by lowest score, however, is not uniformly followed. A student referred by her or his regular program teacher, and who scored below grade level on the local screening tests, may be given priority over a student with a lower CAT score. Conversely, students initially selected for Title I on the basis of a low CAT score may be returned to the regular program if they score at grade level on the local screening tests. Students previously served are given priority. Some students scoring above the 45th percentile, and even at the 60th and 70th

percentile, can be selected for the program in this district,* particularly if they were previously served, the regular teacher wants them in the program, they score below average on the screening tests, and the particular Title I service appropriate for their needs (such as a reading lab) has space available.

Another district also uses a combination of test scores and teacher judgment in selecting Title I students; however, the order in which those factors are applied is reversed. Teachers make an initial determination of the pool of students likely to need compensatory services, and only those students are tested.** This contrasts with the first district described, which makes initial selections based on test scores but allows these decisions to be overridden by subsequent teacher assessment.

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*ED's 1982 Report to Congress, p. III-5, suggests that this district is not an isolated case: "Difficulties in targeting services on the neediest is evident, . . . 457,000 (16 percent of the students in Title I) placed in the upper half of the distribution" of achievement test scores. DPS data, moreover, revealed that despite the "greatest need" provision, 25 percent of the districts reported that one factor considered in selecting students was "potential for success" in the Title I program. (Students scoring relatively higher than those "furthest behind tend to have greater "potential for success" in Title I programs because they learn relatively more, and do so faster. It is not known, however, whether all districts considering this factor would, for this reason, tend to select relatively higher scoring students.)

**A third district which relies most extensively on teacher judgment rather than test scores reported two types of problems occasionally had emerged: (1) teachers sending students to Title I solely because they have behavior problems; and (2) teachers selecting too many students in an effort to get more Title I resources for their school.

Teacher judgment is used only to a limited extent in another district. Students are selected according to test scores, and teacher judgment is used only to determine whether a student should be retested due to doubt as to the validity of the initial test scores.

A different use of test scores and teacher referrals occurs in another district, which, during the course of the year, frequently changes the population served by Title I. An initial pool of students is deemed eligible on the basis of test scores. Then teachers refer different groups continuously throughout the year for Title I services, depending on who seems to need Title I most at the time.*

Use of Student Selection Options

To promote continuity and to sustain gains, Title I permits districts to serve students who received Title I services the previous year, even if they are not among those with the greatest need in the present year. Forty percent of the districts report using this option.

Similarly, Title I contains a mid-year transfer option to ensure that participants transferred to a non-Title I school, due to desegregation or other causes, may receive Title I services for the remainder of the school year. Only 3 percent of the

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*This district reported that a primary result of the selection method was provision of services to students other than those identified as eligible for Title I. The Principals and teachers in this district expressed considerable satisfaction with this arrangement.

districts report that their Title I programs were affected in the last three years by desegregation; but, of those, 50 percent indicate they use the "mid-year transfer option" to continue serving Title I students transferred to non-Title I schools.

Additional variety in the delivery of Title I services is reflected in school districts' use of the option to serve "on an incidental basis" students who are not educationally deprived.* Twenty-six percent of the districts surveyed by mail, (31 percent of the small districts, 15 percent of the medium districts, and 16 percent of the large districts), report that "some non-Title I students receive Title I services" under the "incidental basis" provision.

Almost all of these districts, 97 percent, report that services provided non-Title I students under this option include instruction.** These data were confirmed by the DPS survey of

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*Of interest, 30 percent of the districts state they are unaware of this provision, while 45 percent of the districts state they choose to limit Title I services strictly to students eligible for the program on the basis of low achievement.

**This finding is of interest, since desire to provide Title I instructional services to non-Title I students was not the principal motive for the creation of the option. Rather, a significant motive was the view that even a well planned and efficiently conducted Title I program does not at all times use all its equipment (such as computer terminals or audiovisual equipment); that sometimes buses used for Title I field trips have empty seats; and that it makes little sense to require that equipment remain idle or that seats remain unfilled in order to preserve the integrity of the Title I program. Another frequent rationale for this exception is the unacceptability of preventing Title I nurses from giving emergency first aid to an injured non-Title I child.

Title I teachers, which found 26 percent (the same as the percent of districts using the "incidental basis" provision) reporting that they provide Title I instruction to non-Title I students.

How Might the Selection of Schools, and Degree of Concentration of Services, Be Affected by Either the Chapter I Option to "Utilize Part" of the Funds for All Low-Income Students or Procedures Which Merely "Permit" Selection of Students Having the Greatest Need?

In 1978 Congress noted recent NIE evidence that the goal of concentrating services was not being met:

> The NIE found that there are strong pressures at the local level to increase the numbers of schools being served, and that the goal of concentrating on the lowest income schools is not being effectively met. (H.R. Rep. 1127, pp. 20-21)

The NIE data reviewed earlier in this report indicate the high percentage of schools claimed eligible, the strong tendency to serve all eligible schools, and the prevalent practice of selecting for participation most of the eligible children. DPS data indicate these trends have not changed.

Indeed, the study reinforces the NIE findings with other relevant data. Most districts expressly state they seek to serve as many schools or students as possible. One local administrator says there is pressure from the state to serve more students, and another notes that local preferences make spreading services to many schools "politically desirable." Also, a significant number of districts experiment with different data sources or school or student selection options in order to accomplish their goals.

On a related point, NIE (1978) found that only 45 percent of the school districts "attempted to distribute Title I resources to match the number of students receiving Title I services in particular schools" and that many districts

> use extremely vague rules for allocating resources . . . [with the result that] the level of funding per child might vary substantially from school to school. (p. 79)

NIE concluded:

> There is no assurance that schools with the highest concentrations of either low-income or low-achieving children will receive the greatest amount of Title I resources, or that funds will be allocated in a consistent fashion. (p. 79)

In response, Congress in 1978 enacted §124(e) of Title I, which requires that Title I funds be allocated "on the basis of the number and needs of children to be served."

DPS data indicate that enactment of §124(e) may have increased the extent to which districts use a logical and consistent method of allocating Title I funds. Three-fourths of the districts surveyed report allocating their Title I funds to schools according to the "number of students selected for Title I services"--up from the 45 percent found by NIE prior to 1978.*

Chapter 1 does not contain a provision similar to §124(e), and the ECIA regulations do not address this issue. ED's draft nonregulatory guidance document does not mention directly the

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*DPS data indicate only 11 percent of the districts consider school poverty levels in allocating Title I funds, while 19 percent consider "more informal judgments of need" in making funds allocation decisions.

Title I "number and needs" clause, but on a related topic the document states that Chapter 1 does not "require an LEA to serve attendance areas in rank order of their concentration of children from low-income families." If ECIA is interpreted by districts not to require distribution of funds according to relative need and concentration of participating students, the new law will increase district opportunities to spread funds thinly, the dominant trend found by both NIE and DPS data.

The new ECIA provisions allowing use of part of the funds for all low-income students, and relaxing the requirement to serve those in greatest need, also appear to provide more opportunities to spread funds thinly. Seventy-one percent of the Principals interviewed favor the "utilize part" clause; but 38 percent, along with 60 percent of the Title I Directors, agree that dilution of services to those currently in Title I programs will result.*

DPS data also indicate that, under the "permits" provision, only 37 percent of the districts will limit Chapter 1 services to those students furthest behind. Seventeen percent of the Title I Directors report that pressure exists to serve students other than those in greatest need. Interviews with Title I Directors found that, under the "permits" clause, 18 percent would "serve those who can benefit" and "not serve those who cannot benefit."

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*Mail questionnaire data indicate that 44 percent of the districts will not "utilize part" of their funds for students not now served; an equal percentage of districts say they will, but mostly on a minimal basis.

Some districts even report they would shift or dilute services in response to other new ECIA provisions. Ten percent say they will select more schools or attendance areas, if the ECIA mandate to serve areas having "the highest concentrations of low-income children" is left to local interpretation. Fifteen percent of the districts surveyed (18 percent of the small districts, 15 percent of the medium districts, and 9 percent of the large districts) state they do not at this time qualify for the Title I "no-wide variance" option, but that, without further guidance, they would interpret ECIA's "uniformly high concentration" clause to make all their schools eligible.

Finally, when asked their initial, general assessment of the ECIA school and student selection provisions, 49 percent of the responding districts (46 percent of the small districts, 53 percent of the medium districts and 67 percent of the large districts) state that the flexibility in these provisions "may lead to Title I resources [being] spread too thinly, or to others receiving services at the expense of students presently in the program."

How Might the Elimination of Title I Attendance Area, School, and Student Selection Options Affect Flexibility under Chapter 1?

District Practices Study data presented earlier show that Title I options--such as the 25 percent rule, the formerly eligible clauses, mid-year transfer eligibility, and coordinated planning with state compensatory education--were used by a majority of the districts in which they applied, if local officials

were aware of the option. The data also show that grade-span ranking is a prevalent practice and that selection of schools by achievement data is thought preferable by many Title I Directors.

Given the relative popularity of special options granted by Title I, ECIA's elimination of these options from the statute may induce perceptions that district flexibility has been reduced. Thirty percent of the districts surveyed express such views. The frequency with which these districts report using options eliminated by ECIA is indicated below (total exceeds 100 percent, since districts may use more than one option):

57% Formerly eligible clause

54% Achievement ranking

43% Selection of areas using the 25 percent rule

35% Grade-span ranking

24% Coordination with state compensatory education programs

21% Use of enrollment data rather than attendance area demographic statistics

Several Title I Directors, asked about their general assessments of ECIA during on-site interviews, expressed concern about loss of options. ED's draft guidance document may encourage districts to continue using options that were expressly permitted by Title I. Other districts, however, may be deterred by §554(c) of ECIA, which states:

> The provisions of title I . . . which are not specifically made applicable to programs authorized under this chapter shall not be applicable to programs authorized under this chapter.

CONCLUSIONS

Most districts, using tallies of students receiving free or reduced-price lunches, identify and select for Title I services all schools that can be deemed eligible. To this end, a number of districts experiment with alternative school selection methods to see in advance the results they would produce.

Approximately half of the school districts report serving all students eligible for Title I programs. Eligibility and selection involves use of achievement test results and "cut-off" scores in nearly all districts; but, overall, the student selection process is flexible, employs teacher judgment, and includes discretion to select some students scoring above the cut-off, and to reject some who score below.

Many districts are unaware of the available school and student selection options. Those that are use them with some frequency; and a substantial percentage of districts believe their elimination by ECIA will reduce flexibility. A majority of districts, however, do not perceive a loss of flexibility under ECIA.

In fact, district officials' initial assessment of ECIA provisions is that they allow more schools to be deemed eligible. Most Title I Directors, however, believe services under ECIA will be less concentrated than services under Title I, resulting in reduction of services to students currently in Title I programs.

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